



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mita Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by posting the hearing package on the rental unit door on September 23, 2016. The landlord then amended their application and served the amendment by posting it on the rental unit door on November 3, 2016.. Section 90 of the Act states that a document is deemed to have been served three days after posting. I found that the tenant was deemed served with notice of the hearing on September 26, 2016, and I proceeded with the hearing in the absence of the tenant.

Preliminary Issue – Service of Notice of a Monetary Claim

As set out in sections 88 and 89 of the Act, a monetary claim cannot be served by posting. I therefore dismiss the landlord's monetary claim with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began approximately two and a half years ago. Rent in the amount of \$805.00 is payable in advance on the first day of each month. The tenant failed to pay rent for several months, and on July 16, 2016 the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting the notice to the rental unit door in the presence of two witnesses. The tenant did not pay the outstanding rent or make any other payments of rent after service of the notice to end tenancy.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on July 19, 2016.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on July 29, 2016, the corrected effective date of the notice. The landlord is therefore entitled to an order of possession.

As the landlord's application for an order of possession was successful, I grant the landlord recovery of the \$100.00 filing fee.

Conclusion

The landlord's application is partially successful.

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord's monetary claim is dismissed with leave to reapply.

The landlord may recover their filing fee by withholding \$100.00 from the security deposit.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 17, 2016

Residential Tenancy Branch